federal register

Monday
August 18, 1980

# Part IX

# Environmental Protection Agency

## Controls Applicable to Gasoline Refiners; Lead Phase-down Regulations

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 80**

**[FRL-1563-6]**

## Controls Applicable to Gasoline Refiners; Lead Phase-down Regulations

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** This rule amends the lead phase-down regulations (40 CFR 80.20) by revoking the unleaded gasoline production requirements associated with the optional 0.8 gram per gallon (gpg) standard for the quarter beginning July 1, 1980, and ending September 30, 1980. These requirements are unnecessary this quarter because of adequate supplies of unleaded gasoline.

**DATES:** The revocation of the unleaded gasoline production requirement is effective on August 6, 1980. Under section 307(b)(1) of the Clean Air Act, judicial review of this action is available *only* by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit within 60 days of August 18, 1980 (October 17, 1980). Under section 307(b)(2) of the Clean Air Act, the requirements which are the subject of today's notice may not be challenged later in judicial proceedings brought by EPA to enforce these requirements.

**ADDRESSES:** Copies of information relevant to this rule are available for public inspection at the Central Docket Section (Docket EN-80-11), Environmental Protection Agency, Gallery I, West Tower, 401 M Street SW., Washington, D.C. 20460 and are available for review between the hours of 8:00 a.m. and 4:00 p.m. As provided in 40 CFR Part 2, a reasonable fee may be charged for coping services.

**FOR FURTHER INFORMATION CONTACT:** Robert Summerhayes, Fuels Section, Field Operations and Support Division (EN-397), 401 M Street SW., Washington, D.C. 20460 at (202) 472-9367.

**SUPPLEMENTARY INFORMATION:** On September 12, 1979, EPA published amended regulations which relaxed for one year the lead phase-down standard of 0.5 gpg effective October 1, 1979, to 0.8 gpg conditioned upon an increase in quarterly unleaded gasoline production of six percentage points over the corresponding quarter of the previous year, or an unleaded gasoline production of at least 45 percent of total gasoline (44 FR 53144). EPA relaxed the lead standard to enable refiners to produce more total gasoline. The unleaded gasoline production requirement was included to insure that sufficient supplies of unleaded gasoline would be produced to help protect against increased fuel switching due to shortages of gasoline, particularly unleaded gasoline. Alternatively, refiners were provided the option of complying with the 0.5 gpg requirement on October 1, 1979, as originally promulgated, in which case they would not be required to produce a minimum percentage of unleaded gasoline.

The 6 percent/45 percent unleaded gasoline production percentages were based on the historical growth of unleaded gasoline demand. But EPA noted in the preamble of the September 1979 amendments that it would "continue to monitor unleaded gasoline demand," and stated that "if demand does not grow by at least the historical rate, EPA will take appropriate actions to avoid the unnecessary overproduction of unleaded gasoline."

During January and February 1980, EPA received reports indicating that demand was not continuing to increase at the historical rate and that some overproduction of unleaded gasoline had occurred during the Octoberr-December 1979 quarter and the first part of the January-March 1980 quarter. Some refiners reported unusual difficulties in trading excess unleaded gasoline for leaded gasoline. EPA has also noted that cargo trading differentials on the inter-refinery spot market, which normally reflect a two to three cents per gallon premium for unleaded gasoline, dropped to zero cents per gallon in some areas. In one particular area the cargo trading differential fell to minus one and one-half cents per gallon; that represents a one and one-half cent premium for leaded gasoline over unleaded gasoline. Recent unleaded gasoline sales showed a smaller than six percentage points increase in unleaded gasoline demand during 1979 and early 1980. This reduction in the historical growth rate of unleaded gasoline has been attributed to both the declining sales of new vehicles using unleaded gasoline and the trend towards the use of smaller, more fuel efficient cars. Based on this information, EPA concluded that adequate supplies of unleaded gasoline (relative to leaded) would be available for the January-March 1980 quarter without the imposition of the 6 percent/45 percent production requirement.

In order to avoid the unnecessary loss of energy caused by the overproduction of unleaded gasoline EPA revoked the unleaded gasoline production requirement for the January-March 1980 quarter (45 FR 14854) and proposed alternatives for amending the requirements for the subsequent quarters (45 FR 14899).

On June 2, 1980, EPA revoked the unleaded gasoline production requiremetns for the April-June 1980 quarter (45 FR 37197). The primary reason for doing so was the slackening of consumer demand for gasoline (down about 8% so far this year), which, accompanied by the world-wide stability of crude oil supplies, has resulted in very high inventories of both crude oil and gasoline. Since the possibility of a serious disruption of retail gasoline supplies during the short term is reduced greatly when these inventories are high, EPA concluded that adequate supplies of unleaded gasoline would probably be available for the quarter without the imposition of an unleaded gasoline production requirement.

Simultaneously, EPA proposed three alternatives for amending the requirements for the July-September 1980 quarter. The possible alternatives included, but were not limited to: (1) No change; (2) adjust the 6%/45% production requirement to more accurately reflect the increased demand for unleaded gasoline during the quarter beginning July 1, 1980, and ending September 30, 1980, over the corresponding quarter in 1979; or (3) revoke the unleaded production requirements for the second and third quarters of calendar year 1980. EPA solicited comments from interested parties concerning which of the proposed alternatives would be most effective.

Consumer demand for gasoline products has remained low. Deliveries of gasoline for the first five months of 1980 were 8% below the amount delivered during the comparable period in 1979. At the same time, inventories of motor gasoline have been high (about 8% higher than the DOE Projected Normal Level). Significantly, the average retail price of motor gasoline has fallen by a small yet perceptible amount in recent weeks showing that competition in the retail marketplace has grown. Lastly, stocks of crude oil, distillate fuel oil, and residual fuel oils have remained high recently. In the event of a sudden increase in consumer demand for gasoline or a major disruption in crude oil supplies, these extra stocks could provide refiners the flexibility to produce greater quantities of both leaded and unleaded gasolines.

When all of these stocks are high, the possibility of a serious disruption of retail gasoline supplies during the short

term is reduced greatly. While complete assurance is not possible, it appears that adequate supplies of unleaded gasoline will be available for the current quarter without the imposition of an unleaded gasoline production requirement.

Because of EPA's desire to avoid any unnecessary loss of energy from the overproduction of unleaded gasoline. the lead phase-down regulations are being amended to remove the production requirement for the July-September 1980 quarter.

Because this rule relieves a restriction on the regulated industry, EPA is publishing this amendment as a final rule effective immediately, pursuant to the exemptions in 5 U.S.C. 553(d). Since this rule results in a relaxation of an existing regulatory control, EPA has determined that this document does not contain a major action requiring an Economic Impact Analysis under Executive Orders 11821, 11949, 12044, and section 317 of the Clean Air Act, as amended.

**Summary of Comments Received**

The following is a summary of public comments received on the three alternatives proposed in June:

1. Keep present requirements in place.

No commenters suggested that EPA maintain an unleaded gasoline production requirement for the July-September 1980 quarter. Some stated that the continuation of the present requirements would result in marketplace perturbations such as those which occurred in January and February of 1980.

2. Adjust the requirements to an intermediate figure. Several commenters stated that if some unleaded production requirement were imposed, then the magnitude of the requirement should be lowered. They argued, however, that such a revision would be difficult because of continuing changes in consumer driving habits which have occurred in response to higher gasoline prices. One refiner noted that the growth in unleaded sales in its particular market was only 1.5–2.0 percentage points over 1979 levels. Other estimates were somewhat higher (up to 5.8 percentage points). As a result, lowering the requirements to 5 or 5.5 percentage points could still cause market disruptions, though of a smaller magnitude.

EPA understands the difficulty in precisely revising the estimate of unleaded market share growth and has determined that adjusting the unleaded production requirements to some intermediate value is not practicable.

3. Revoke the unleaded production requirements.

All of the commenters identified this option as their preferred approach. Some commenters had previously noted that the refining industry has more than sufficient capacity to produce unleaded gasoline and that the existing two cents per gallon cost pass-through rule provided by the Department of Energy provides a sufficient incentive to use that capacity. A couple of commenters stated that sufficient volumes of unleaded gasoline would be available as long as crude supplies are not significantly interrupted.

An analysis of such factors as world-wide crude production levels, domestic crude oil and motor gasoline stocks, and product prices indicates that domestic supplies of gasoline should be adequate for the reaminder of this quarter. Since the unleaded production requirements are unnecessary when adequate supplies of unleaded gasoline are available and since refiners have both the capability and incentive to produce the market split of unleaded gasoline if adequate crude supplies are available, EPA has decided to revoke the unleaded requirements for the July-September 1980 quarter.

Dated: August 6, 1980.

**Douglas M. Costle,**

*Administrator.*

Accordingly, notice is hereby given that 40 CFR Part 80 is amended by amending § 80.20(a)(7) to remove the unleaded gasoline production requirements for the July-September 1980 quarter so as to read as follows:

**§ 80.20 Controls applicable to gasoline refiners.**

(a) * * *

(7) In the manufacture of gasoline, no gasoline refiner who has submitted a valid registration form for refineries in accordance with paragraph (a)(6) of this section, shall, in aggregate, at those registered refineries, produce unleaded gasoline as a percentage of total gasoline for the quarter beginning October 1, 1979, that is less than that percentage in the quarter beginning October 1, 1978, plus six (6) percentage points unless the production of unleaded gasoline as a percentage of total gasoline produced by the refiner in aggregate at registered refineries is greater than 45%.

* * * * *

(Sections 211, 301(a), Clean Air Act, as amended, 42 U.S.C. 7545, 7601(a).)

[FR Doc. 80-25211 Filed 8-15-80; 9:29 am]

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The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday).

This is a voluntary program. (See OFR NOTICE 41 FR 32914, August 6, 1976.)

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| DOT/FRA | USDA/REA | | DOT/FRA | USDA/REA |
| DOT/NHTSA | MSPB/OPM | | DOT/NHTSA | MSPB/OPM |
| DOT/RSPA | LABOR | | DOT/RSPA | LABOR |
| DOT/SLSDC | HHS/FDA | | DOT/SLSDC | HHS/FDA |
| DOT/UMTA | | | DOT/UMTA | |
| CSA | | | CSA | |

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator. Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408

## REMINDERS

The "reminders" below identify documents that appeared in issues of the Federal Register 15 days or more ago. Inclusion or exlusion from this list has no legal significance.

### Rules Going Into Effect Today

**ENERGY DEPARTMENT**

Federal Energy Regulatory Commission—

49077 7-23-80 / Rules generally applicable to regulated sales of natural gas

**ENVIRONMENTAL PROTECTION AGENCY**

48132 7-16-80 / Attainment States designations for air quality planning proposes; Illinois

**INTERIOR DEPARTMENT**

Coast Guard—

47842 7-17-80 / Use of helicopters in the management of wild free-roaming horses and burros

Land Management Bureau—

47843 7-17-80 / Off-road vehicles; licensing

**PERSONNEL MANAGEMENT OFFICE**

48096 7-18-80 / Employee training, policies and procedures

48098 7-18-80 / Federal employees health benefits program; Benefits for medically underserved areas

**TRANSPORTATION DEPARTMENT**

Coast Guard—

47842 7-17-80 / Boundary realinements within the 12th Coast Guard District

### List of Public Laws

**Note:** No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws.**

**Last Listing August 14, 1980**